IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

Tr.P(C).No. 126 of 2007()

{O.P.NO.791/2006 OF THE FAMILY COURT,
KOZHIKODE}

.....

PETITIONERS:

1. SREEJA.S.,
SREEJA BHAVAN,
PALLURUTHY, KOCHI-6.

2. T.K.SUKUMARAN, DO. DO.

BY ADV. SRI.V.PREMCHAND

RESPONDENTS:

K.K.ANOOB,
ANJALI, KUNNAMANGALAM,
KOZHIKODE DISTRICT.

BY

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

Tr.P.C. No.126 2007

Dated this the 8th day of June, 2007.

JUDGMENT

This transfer petition is filed to transfer O.P.No.791/06 pending before the Family Court, Kozhikode to the Family Court, Ernakulam for trial along with O.P.No.248/07 pending before the latter court.

2. Unfortunate couple, a Homeopathic Doctor and a BSNL Engineer got married in the year 2005 and had fallen out very quickly and the husband had approached the Family Court, Kozhikode for declaration of the marriage as void and for consequential reliefs. He had arrayed the father of the wife also as the 1st respondent. Thereafter, the wife had moved the Family Court, Ernakulam for return of gold ornaments and it is pending before the Family Court, Ernakulam.

3. The principal issue to be considered in this matter is regarding the validity of the marriage. The wife was working in Koonoor at Ootty at the time of marriage and the husband was working in Calicut. She was shuttling between

the places. Now, she has been transferred to Ulliyeri, which is situated about 50 kms away, even according to the petitioner, from the Family Court, Kozhikode. So in a case of this nature, where the prayer is to declare the marriage as invalid on the ground of incapacity of mind of the wife, such cause of action and evidence are necessarily to be found from the place where they resided together and not from the house of the wife. So, the major chunk of the evidence has to be let in from the witnesses available at Kozhikode. Just because the wife has filed a suit for return of gold ornaments, it will not give a cause of action for the court to transfer the case from the Family Court, Kozhikode to the Family Court, Ernakulam.

Therefore, I do not find any circumstance which warrants a transfer of the case and therefore, this transfer petition is dismissed.

Sd/-

(M.N.KRISHNAN)
JUDGE

sk/

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P.S. To Judge